

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

March 15, 2012

Before

RICHARD D. CUDAHY, *Circuit Judge*

TERENCE T. EVANS, *Circuit Judge**

JOHN DANIEL TINDER, *Circuit Judge*

No. 09-3932

UNITED STATES OF AMERICA
Plaintiff-Appellee,

v.

Appeal from the United States
District Court for the
Northern District of Illinois,
Western Division.

SERGIO SANDOVAL RAMIREZ,
Defendant-Appellant.

No. 09 CR 50023-1

Frederick J. Kapala,
Judge.

No. 10-2190

UNITED STATES OF AMERICA
Plaintiff-Appellee,

v.

Appeal from the United States
District Court for the
Northern District of Illinois,
Eastern Division.

FRANCISCO OCAMPO-PINEDA,
Defendant-Appellant.

No. 09 CR 632-1

Virginia M. Kendall,
Judge.

*Circuit Judge Evans died on August 10, 2011, and did not participate in the decision of the Petition for Rehearing, which is being resolved by a quorum of the panel under 28 U.S.C. § 46(d).

No. 10-2689

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

LUIS A. MANDUJANO-GONZALEZ
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District of
Illinois,
Eastern Division.

No. 09 CR 586-1

Amy J. St. Eve,
Judge.

O R D E R

The defendants-appellants filed a petition for rehearing en banc. An answer was requested and filed. No judge in active service has requested a vote on the petition. Accordingly, the petition for rehearing en banc is **DENIED**.

However, the amended opinion in this case initially issued in typescript form on December 23, 2011, and published on January 6, 2012, is amended as follows:

In the opinion issued in typescript, after the third sentence on page 11, which reads “But *Reyes Hernandez* also emphasizes . . . *Id.* at 420.” insert as a footnote:

This court does not overlook the fact that district courts retain substantial discretion to consider mitigation arguments at sentencing. As this court made clear in *United States v. Reyes-Hernandez*, 624 F.3d 405 (7th Cir. 2010), district courts *may* consider a fast-track argument, but they are not required to consider one. This opinion addresses a different question—when is a district court *obliged* to comment on a fast-track argument. Nothing in this opinion precludes a district court judge from considering a mitigation argument.